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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

SYLVIA AHN, as daughter and
on behalf of the Estate of
Choung Woong Ahn,

Plaintiff,

v.

GEO GROUP, INC.; UNITED STATES
IMMIGRATION & CUSTOMS
ENFORCEMENT; and the CITY OF
MCFARLAND,

Defendants.

Case No. 1:22-cv-00586-JLT-
BAK (SAB)

**FIRST AMENDED
COMPLAINT**

**pro hac vice*

Introduction

1. This is a survival, wrongful death, and disability discrimination action for compensatory and punitive damages arising out of the torture and preventable death by suicide of Choung Woong Ahn inside a solitary confinement cell at the Mesa Verde ICE Processing Facility (“Mesa Verde”).

Parties

2. Plaintiff Sylvia Ahn (“Plaintiff”) is the natural and legal daughter of the decedent, Choung Woong Ahn (“Mr. Ahn”), and an adult resident of Houston, Texas. Plaintiff is the Successor-in-Interest of the Estate of Choung Woong Ahn. Plaintiff brings this action Individually and on behalf of the estate of Choung Woong Ahn.
3. Decedent Choung Woong Ahn died while incarcerated at Mesa Verde in Bakersfield, CA on May 17, 2020. Prior to his imprisonment Choung Woong Ahn was a resident of Oakland, California.
4. At all times relevant to the Complaint, Defendant GEO Group, Inc. or (“GEO group”) is and was a Florida corporation with its principal street address located at 4955 Technology Way, Boca Raton, FL 33431.
5. At all times relevant to the complaint Defendant GEO Group owned and operated Mesa Verde in Bakersfield, CA pursuant to a contractual arrangement with government parties including, at times, the City of McFarland and U.S. Immigration and Customs Enforcement (“ICE”).
6. Defendant United States Immigration and Customs Enforcement (“ICE”) is a federal law enforcement agency within the Department of Homeland Security (“DHS”). ICE is responsible for the administrative enforcement of immigration laws, including the detention and removal of immigrants. Enforcement and Removal Operations (“ERO”), a division of ICE, manages and oversees the immigration detention system.

Jurisdiction and Venue

7. This Court has subject matter jurisdiction over Plaintiff's claims under Section 504 of the Rehabilitation Act and the Alien Tort Statute ("ATS") pursuant to U.S.C § 1331 (federal question jurisdiction).
8. Venue is proper in this District under 28 U.S.C. § 1391(b). A substantial part of the events or omissions giving rise to the claims occurred in the Eastern District of California.
9. This Court has personal jurisdiction over GEO Group because the corporation regularly conducts business in California and has sufficient minimum contacts with California.
10. Plaintiff requests that this Court exercise supplemental jurisdiction over her California state law claims pursuant to 28 U.S.C. §1367.

Factual Allegations

I. Mr. Ahn's Detention and Death

11. This case arises out of the torture and preventable death by suicide of Mr. Ahn, a longtime US resident who was 74 years old at the time of his death.
12. Mr. Ahn was born in South Korea and entered the United States in 1988 as a Lawful Permanent Resident ("LPR"). He lived in the San Francisco Bay Area until the time of his arrest and detention, maintaining LPR status for over three decades, until his death.
13. He was confined to state prison for years. During this time Mr. Ahn developed severe depression and other mental health conditions and attempted suicide at least three times in 2014, 2015, and 2019.
14. Although the State of California determined that Mr. Ahn should be released to live in the community and granted his early release from prison on parole, or about February 21, 2020, ICE ERO arrested Mr. Ahn at the Solano State

1 Prison in Vacaville, California, taking him into their civil custody. They then
2 transported Mr. Ahn to Mesa Verde.¹

3 15. Mesa Verde is a federal immigration detention facility operated by
4 Defendant GEO Group through contractual agreement.

5 16. Mesa Verde has been the subject of numerous pieces of litigation and federal
6 investigations concerning the substandard medical and mental health
7 treatment provided at the facility.²

8 17. Upon Mr. Ahn's detention at Mesa Verde, he was only offered a cursory
9 mental health screening and his records were not examined to determine the
10 extent of his mental illnesses or identify past suicidal ideation and past
11 suicide attempts.

12 18. As Mr. Ahn remained at Mesa Verde, staff soon realized what would have
13 been apparent from his records: that Mr. Ahn was severely depressed,
14 experienced regular suicidal ideation, and had attempted suicide three times
15 in detention settings.

16 19. On March 12, 2020, Mr. Ahn reported experiencing shortness of breath and
17 chest pain, and was admitted to the emergency department of Mercy
18 Hospital in Bakersfield, California. He received emergency surgery to
19 remove a mass on his lung.

22 ¹ Other courts have noted the lack of foundation undergirding current immigration detention
23 practices: "...it would appear we are spending millions of our national treasure to lock up
24 thousands of people who might better be released on strict bail conditions without impairing the
safety of our citizens or the operations of our government." *Savino v. Souza*, 459 F. Supp. 3d
317, 322 (D. Mass. 2020).

25 ² "Indeed, the documentary evidence shows that the defendants have avoided widespread testing
26 of staff and detainees at the facility, not for lack of tests, but for fear that positive test results
27 would require them to implement safety measures that they apparently felt were not worth the
trouble. This conduct by the defendants has put the detainees at serious risk of irreparable harm.
28 The defendants have also jeopardized the safety of their own employees. And they have
endangered the community at large." *Zepeda Rivas v. Jennings*, Case No. 20-cv-02731-VC, ECF
500 at p. 1 (N.D. Cal. Aug. 6, 2020).

1 20. At the time Mr. Ahn was distressed and despondent, believing that he had
2 been diagnosed with lung cancer.

3 21. The hospital requested that Mr. Ahn return shortly for follow up care and to
4 confirm the biopsy results. But ICE delayed authorizing and scheduling the
5 appointment for months.

6 22. Mr. Ahn never received the follow up treatment or biopsy results.

7 23. On April 10, Mr. Ahn joined a peaceful hunger strike occurring in his
8 dormitory and began refusing meals to protest the conditions at Mesa Verde.

9 24. In April 2020 during a mental health appointment, Mr. Ahn reported to a
10 psychologist employed by Defendant GEO Group that he had feelings of
11 sadness and low energy, as well as trouble sleeping. The psychologist
12 concluded that Mr. Ahn had an unspecified depressive disorder and referred
13 him to a psychiatrist.

14 25. Later that same month, Mr. Ahn informed Mesa Verde medical staff that he
15 had attempted suicide at least three different times in custody in 2014, 2015,
16 and 2019.

17 26. On April 30, 2020, Mr. Ahn reported to mental health staff in a “talk
18 therapy” session that his depression was “6-7/10 (10 being the worst).” He
19 expressed feelings of anxiety and not “want[ing] to live in this life.”

20 27. Mr. Ahn continued to become more distressed and despondent because of
21 the conditions inside Mesa Verde, and in particular, their now well-
22 documented dangerous mishandling of the COVID-19 pandemic.³

23
24 ³ See, e.g., *Joint Statement by the detained people at Mesa Verde* (Aug. 6, 2020),
25 [https://www.centrolegal.org/wp-content/uploads/2020/08/MV-COVID-19-Outbreak-](https://www.centrolegal.org/wp-content/uploads/2020/08/MV-COVID-19-Outbreak-Statement.pdf)
26 [Statement.pdf](https://www.centrolegal.org/wp-content/uploads/2020/08/MV-COVID-19-Outbreak-Statement.pdf) (Mesa Verde detainees reporting that as of early August 2020, “new people
27 continued to arrive in our dorms, straight from prisons with massive COVID-19 outbreaks,
28 without being quarantined or even tested for the virus”); *Zepeda Rivas v. Jennings*, No. 20-cv-
02731-VC, 2020 WL 3055449 at *4 (N.D. Cal. June 9, 2020) (ordering ICE to close intake at
Mesa Verde and commenting that ICE’s conduct “since the pandemic began ha[s] shown beyond
doubt that ICE cannot currently be trusted to prevent constitutional violations at [Mesa Verde]
without judicial intervention.” and further finding that ICE did not regularly quarantine or test

1 28.Mr. Ahn submitted at least three requests for release through his lawyers, all
2 of which were denied.

3 29. On May 11, 2020, Mr. Ahn wept and then fell into a despondent silence
4 upon learning that his latest release request had been denied, commenting to
5 others that he would never get out of detention.

6 30.On May 12, 2020, Mr. Ahn was admitted to Mercy Hospital in Bakersfield
7 due to chest pain.

8 31.Throughout his detention at Mesa Verde, Mr. Ahn made several medical
9 requests due to persistent pain in his feet, his shoulder, and his chest.

10 32.Further, his diabetes and high blood pressure medication were not refilled in
11 a timely manner, and he made several complaints regarding this lack of
12 proper treatment.

13 33.On the day Mr. Ahn was hospitalized, he was struggling to breathe,
14 complaining of chest pain, and had liquid coming out of his nose.

15 34.Mr. Ahn returned to Mesa Verde on May 14, 2020, after receiving a
16 negative COVID-19 test.

17 35.Despite this, Mr. Ahn was placed in a solitary isolation unit upon his return
18 with no legitimate purpose identified for this isolation.

19 36.Despite Mr. Ahn's current mental state, diagnosed depression, and past
20 suicide attempts, he was placed in a solitary cell, with a "tie off point" and
21 bed sheet, and with no human contact.

22 37.The availability of a tie off point and bed sheet or other rope-like device are
23 high risk factors for the effectuation of a suicide attempt when paired with
24 the mental health diagnosis and suicide history of Mr. Ahn.

25
26
27 detainees transferred from COVID-19-infected prisons upon intake at Mesa Verde, but rather
28 brought them directly into dormitories); *Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC, 2020
WL 4554646, at *1 (N.D. Cal. Aug. 6, 2020) (ordering ICE to stop incoming transfers to Mesa
Verde).

1 38. Even if GEO Group’s staff had a credible suspicion that Mr. Ahn had
 2 contracted COVID, his placement in solitary confinement would have been
 3 unwarranted and dangerous, particularly for someone with Mr. Ahn’s
 4 document mental health conditions and suicidality. At the time, public health
 5 experts warned that ICE’s “practice . . . of locking people in conditions . . .
 6 [is] equivalent to punitive solitary confinement . . . as a form of ‘quarantine’
 7 or ‘medical isolation’” in response to the COVID-19 pandemic, as it
 8 subjected detained people to “significant risk of grave harm (including harm
 9 that may be permanent, even fatal).” Citing “widely accepted” scientific
 10 consensus, experts explained that “ICE detainees with pre-existing mental
 11 illness or emotional impairment are especially at risk”; when “placed in
 12 conditions that are the equivalent of solitary confinement” they are
 13 “especially likely to suffer an exacerbation of their psychiatric disability,”
 14 rendering them “even more medically and psychologically vulnerable.”

15 39. Experts concluded that solitary confinement is by design an “inappropriate,
 16 ill-conceived, and counter-productive” tool for quarantine. Among other
 17 things, detainees held in solitary often lack access to adequate medical care
 18 and hygiene supplies “even more acute[ly]” than in the general population,
 19 surfaces may be unsanitary, and without the use of negative pressure rooms,
 20 the virus can still easily spread through airborne transmission. As such, this
 21 practice “very likely exacerbate[s] rather than limit[s] or alleviate[s] the
 22 spread of COVID-19” in ICE facilities. Medical professionals have further
 23 highlighted Mr. Ahn’s case as illustrating how “preemptive lockdowns” in a
 24 “solitary confinement” setting, marked by “extreme isolation and stark
 25 conditions,” pose “grave dangers to [detained persons’] mental and physical
 26 health” and threaten “needless suffering and loss of life.”

27 40. Further undercutting any legitimacy behind GEO’s isolation of Mr. Ahn was
 28 the practice of ICE and GEO at the time of regularly accepting incoming

1 transfers from California prisons with confirmed outbreaks of COVID-19,
2 directly into the dormitories at Mesa Verde, without universally quarantining
3 or regularly testing them.

4 41. This practice continued for months after Mr. Ahn's death, until a federal
5 court ordered them to stop, finding that their inadequate testing and
6 quarantine protocols likely violated the Fifth Amendment rights of all
7 detainees.

8 42. After being placed in solitary, Mr. Ahn informed the psychologist that he
9 had feelings of depression.

10 43. Nevertheless, staff held him there and never even considered any alternative
11 housing placement that would have accommodated Mr. Ahn's mental state.

12 44. At this point, because of his isolation, Mr. Ahn began expressing his suicidal
13 ideation to people beyond medical staff, including his brother, Young Ahn.

14 45. On May 16, 2020, a clinical psychologist subcontracted by GEO Group
15 reported that Mr. Ahn appeared to be at "high suicidal risk if deported."

16 46. On the morning of May 17, 2020, an attorney for Mr. Ahn emailed ICE,
17 requesting that they return him to his dormitory because isolation was
18 proving detrimental to his mental health.

19 47. Also on May 17, 2020, a contracted Wellpath medical provider indicated
20 that Mr. Ahn's mental illness was "severe" and again stated that Mr. Ahn
21 was at "high risk of suicide if deported."

22 48. At that point, along with his extreme isolation, Mr. Ahn faced the imminent
23 threat of deportation. His next scheduled hearing in his removal proceedings
24 was May 19, 2020, and he remained uncounseled in his removal
25 proceedings.

26 49. Despite the deteriorating and well documented state of Mr. Ahn's mental
27 state, and despite internal procedures to the contrary, on the evening of
28

1 Sunday, May 17, 2020, Mr. Ahn was left unobserved in the isolation cell
2 with access to bed sheets and a tie off point.

3 50. During the period when he was unobserved, Mr. Ahn died by hanging
4 himself with a bedsheet.

5 51. On that day, Sylvia Ahn permanently lost her father.

6 **II. Applicable Standards and Protocols**

7 52. GEO Group and ICE are subject to Performance-Based National Detention
8 Standards 2011 (PBNDS 2011), which impose standards and protocols for,
9 *inter alia*, detainees at risk of suicide and detainees with disabilities.

10 53. Under those standards, Defendants ICE and GEO Group are required to
11 identify detainees with a risk of suicide or self-harm in an initial screening,
12 to be conducted within 12 hours of admission. 2011 PBNDS 4.6 Significant
13 Self Harm and Suicide Prevention and Intervention.

14 54. Defendants also must remain vigilant in recognizing and reporting detainees
15 who show a risk of suicide or self-harm any time after admission.

16 55. Once a detainee is identified as at-risk of suicide or self-harm, Defendants
17 must refer the detainee for an evaluation by a mental health provider within
18 24 hours.

19 56. In between the identification and evaluation, Defendants must place the
20 detainee in a secure environment with one-to-one visual observation.

21 57. A qualified mental health professional must conduct the evaluation. The
22 professional must determine the level of risk, level of supervision needed, a
23 treatment plan, and the potential need for transfer to an inpatient mental
24 health facility. The professional's evaluation must rely, among other things,
25 upon the detainee's relevant history, diagnoses, and environmental factors.

26 58. The professional may place the detainee in a special isolation room designed
27 for evaluation and treatment with continuous monitoring that must be
28 documented every 15 minutes or more frequently if necessary. The isolation

1 room must be suicide-resistant, including that it be free from any features
2 that could facilitate a suicide attempt.

3 59.If there is no special isolation room available, then the suicidal detainee may
4 be temporarily placed in a special management unit. While in that unit, the
5 detainee shall have access to all programs and services that are available to
6 the general population, to the maximum extent possible. Detainees on
7 suicide precautions who have not been placed in a special isolation room
8 should receive documented close observations at least every 15 minutes.

9 60.The protocols also impose training obligations. Defendants must provide all
10 facility staff members who interact with and/or are responsible for detainees
11 with comprehensive training initially during orientation and repeated at least
12 annually, on effective methods for identifying significant self-harm, as well
13 as suicide prevention and intervention with detainees. Initial training should
14 consist of at least eight hours of instruction, and subsequent annual trainings
15 should be a minimum of two hours.

16 61.PBNDS 2011 also details protocols for detainees with disabilities. 2011
17 PBNDS 4.8.

18 62.A detainee is disabled if they have a physical or mental impairment that
19 substantially limits a major life activity, or if they have a record of such an
20 impairment.

21 63.To identify a detainee with a disability, Defendants shall consider
22 information submitted by a third party, including an attorney, family
23 member, or other detainee in order to identify detainees with disabilities.

24 64.Defendants are also required to identify detainees whose impairments are
25 “open, obvious, and apparent.” This kind of identification may occur
26 through medical or intake screenings, or direct observation.

27 65.Upon identifying a detainee with a disability, the facility must review the
28 detainee for necessary accommodations.

66.If the detainee’s disability accommodations are “complex or best addressed by staff from more than one discipline (e.g., security, programming, medical, or mental health, etc.),” then the accommodation should be reviewed by a multidisciplinary team.

67.Defendants may deny accommodations to a detainee only if the detainee can access the facility’s programs, services, or activities without them; there is no relationship between the disability and the accommodation; the accommodation would fundamentally alter the program or impose an undue burden; or the detainee poses a direct threat to staff or other detainees.

68.As with self-harm and suicide, PBNDS 2011 imposes obligations on Defendants to train their staff on these requirements. Staff must receive the information during an orientation training, and then annually thereafter.

CLAIMS FOR RELIEF

COUNT ONE: WRONGFUL DEATH

Plaintiff against Defendant GEO Group

69.Plaintiff realleges and incorporates by reference all allegations in the foregoing paragraphs.

70.“The elements of a wrongful death claim are: (1) a wrongful act or neglect that (2) causes (3) the death of another person.” *Estate of Vela v. County of Monterey*, 2018 WL 4076317, at *13 (N.D. Cal. 2018) (citing Cal. Civ. P. Code § 377.60 and *Norgart v. Upjohn Co.*, 21 Cal. 4th 383, 390 (1999)).

71.Wrongful acts include “any kind of tortious act.” *Barrett v. Superior Court*, 222 Cal. App. 3d 1176, 1191 (1990). Because detainees are helpless to protect themselves while in the custody and control of an immigration detention facility, GEO Group owes detainees a heightened duty of care. *See, Edison v. U.S.*, 822 F.3d 510, 521-22 (9th Cir. 2016).

1 72. Wrongful acts also include constitutional violations. *See, e.g., Villarreal v.*
2 *Cty. of Monterey*, 254 F. Supp. 3d 1168, 1191 (N.D. Cal. 2017) (deliberate
3 indifference to medical needs is a “wrongful act”).

4 73. Here, Defendant GEO Group:

- 5 a. Failed to identify Mr. Ahn as disabled or at-risk for suicide or self-
6 harm during an initial screening. GEO Group staff failed, during that
7 screening, to effectively inquire into Mr. Ahn’s relevant medical
8 history and prior suicide attempts.
- 9 b. Failed to identify Mr. Ahn as disabled or at-risk of suicide or self-
10 harm at any time after his initial screening, despite Mr. Ahn’s
11 repeated statements expressing feelings of depression, anxiety, low
12 energy, and possible suicidal ideation, including to GEO Group staff.
- 13 c. Failed to provide Mr. Ahn with a necessary mental health evaluation
14 or treatment.
- 15 d. Locked Mr. Ahn into a solitary confinement cell, despite the fact that
16 GEO Group staff knew that Mr. Ahn had mental illness, and that
17 isolating a person with mental illness causes their condition to
18 deteriorate and creates a substantial risk of self-harm or suicide.
19 Locking Mr. Ahn in solitary confinement also denied him a safe place
20 to sleep by reason of his disability, when he could have been housed
21 elsewhere.
- 22 e. Failed to inspect the cell for any implements that could facilitate self-
23 harm or suicide, and so left the cell with a bed sheet and tie-off point.
- 24 f. Failed to appropriately observe Mr. Ahn in accordance with the
25 observation needs and requirements for someone with Mr. Ahn’s
26 mental health conditions.

27 74. These acts and omissions constitute negligence, negligence per se, violations
28 of federal disability law, and violations of the U.S. Constitution.

1 75.The negligent acts and omissions were performed by GEO Group and its
2 agents or employees who acted within the scope of their employment for
3 GEO Group.

4 76.It was reasonably foreseeable that these acts and omissions would place Mr.
5 Ahn at substantial risk of self-harm or suicide, and these acts and omissions
6 proximately caused Mr. Ahn's death.

7 77.Mr. Ahn's death caused Sylvia Ahn to lose her father and resulted in pain
8 and suffering from that loss.

9 78.Because GEO Group's negligence, negligence per se, and recklessness
10 proximately caused Mr. Ahn's death, California law allows Plaintiff, his
11 daughter, to recover for the full value of Plaintiff's life, and to seek punitive
12 damages in these circumstances, which present wanton, reckless, and
13 depraved actions by GEO Group, which will continue to claim the lives of
14 people locked inside its facilities in the absence of judicial opprobrium and
15 punishment by a jury.

16 **COUNT TWO: DISABILITY DISCRIMINATION – VIOLATION OF**
17 **THE REHABILITATION ACT**

18 ***Plaintiff against Defendants GEO Group and ICE***

19 79.Plaintiff re-alleges and incorporates by reference all allegations in the
20 foregoing paragraphs.

21 80.Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, prohibits
22 discrimination on the basis of disability in (1) any program or activity
23 receiving federal financial assistance; or (2) under any program or
24 activity conducted by any Executive agency or the United States Postal
25 Service. 29 U.S.C. § 794.

26 81.Section 504 of the Rehabilitation Act requires covered parties to provide
27 "reasonable accommodations" to individuals with disabilities so they can
28

1 fully participate in benefits administered by these agencies. 29 U.S.C. §
2 794(a).

3 82.DHS regulations implementing the Rehabilitation Act mandate that “[n]o
4 qualified individual with a disability in the United States, shall, by reason of
5 his or her disability, be excluded from participation in, be denied benefits of,
6 or otherwise be subjected to discrimination under any program or activity
7 conducted by the Department.” 6 C.F.R. § 15.30; see also 29 U.S.C. §
8 794(a).

9 83.The regulations implementing Section 504 prohibit entities receiving federal
10 financial assistance from utilizing “criteria or methods of administration (i)
11 that have the effect of subjecting qualified handicapped persons to
12 discrimination on the basis of handicap, (ii) that have the purpose or effect
13 of defeating or substantially impairing the accomplishment of the objectives
14 of the recipient’s program or activity with respect to handicapped persons.”
15 34 C.F.R. § 104.4(b)(4).

16 84.The removal proceedings are a benefit or program administered by DHS and
17 Mr. Ahn was entitled to participate in the removal process. The services,
18 programs, and activities within the detention centers where DHS detained
19 Mr. Ahn receive substantial federal financial assistance.

20 85.ICE is a component agency of the DHS, which is an Executive agency. *See* 6
21 C.F.R. § 15.1.

22 86.GEO Group operates a program or activity at Mesa Verde by contract with
23 and for ICE and it receives federal financial assistance for this operation.

24 87.

25 88.GEO Group’s federal financial assistance also includes subsidies that the
26 corporation receives in connection with its Voluntary Work Program for
27 federal immigration detainees housed at GEO Group facilities, though
28 which: (a) the Unites States authorizes GEO Group to use detainees to

perform essential work at wages far, far below market rates, work that GEO Group would otherwise be required to carry out with additional staff hired from the community at market rates, thus providing GEO Group with a significant financial benefit; and (b) the United States provides GEO Group a stipend of \$1 per day for each detainee who participates in the Voluntary Work Program. *See* 8 U.S.C. § 1555(d); 2011 Performance-Based National Detention Standards, Section 5.8, Voluntary Work Program, available online: <https://www.ice.gov/doclib/detention-standards/2011/5-8.pdf> (Last accessed June 17, 2022).

89. Additionally, GEO Group's federal financial assistance includes subsidies that the corporation receives in connection with revenues obtained through commissary. In its Intergovernmental Service Agreement with GEO Group to operate Mesa Verde, ICE authorizes GEO Group to use the excess revenues from detainees' purchases of commissary items to offset staff salaries that GEO Group would have otherwise been required to pay in-full.

90. GEO Group also receives federal financial assistance by providing their officers free staff meals prepared for by detainees through the food budget allocated by ICE.

91. All operations in Mesa Verde are considered a "program, service, or activity." The Rehabilitation Act of 1973 defines a "program or activity" as "*all of the operations* of . . . a department, agency, . . . or instrumentality of a State or of a local government." 29 U.S.C. § 794(b)(1)(A) (emphasis added). It also includes "*all of the operations* of . . . an entire corporation . . . which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation," or "the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation." 29 U.S.C. § 794(b)(3)(A) and (B) (emphasis added). This includes *all*

1 *operations* of an “entity which is established by two or more of the entities.”
2 29 U.S.C. § 794(b)(4) (emphasis added).

3 92. In its Component Self-Evaluation and Planning Reference Guide, DHS
4 acknowledges that its “federal conducted programs” include “operation of
5 immigration detention facilities.”

6 93. The DHS document further states that “[a] Component’s activities carried
7 out through contracts are considered conducted activities and are subject to
8 the same obligation [of complying with the Rehabilitation Act].” *Id. See also*
9 Instruction on Nondiscrimination for Individuals with Disabilities in DHS
10 Conducted Programs and Activities (Non-Employment), DHS Directives
11 System Instruction No. 065-01-001 (defining conducted activities of DHS to
12 include “those carried out through contractual or licensing arrangements”).

13 94. Additionally, Congress has required ICE to ensure contractors like GEO
14 Group fully implement the programmatic guarantees of the PBNDS 2011.

15 95. As administered by contractual agreement at Mesa Verde, the PBNDS
16 constitutes a federal program under the authority of 8 U.S.C. § 1103(a)(11)
17 that ensures access to services including safe sleeping facilities, telephone
18 calls, adequate medical, dental, and mental health care (including outside
19 care), recreation, commissary, law library, visitation, counsel, and
20 appropriate classification in civil immigration detention. Mr. Ahn was
21 entitled to all of the benefits administered by GEO and ICE administered
22 through PBNDS and their contract terms.

23 96. The removal proceedings are also benefit or program administered by DHS
24 and Mr. Ahn was entitled to participate in this removal process. The federal
25 benefit provided by GEO at Mesa Verde includes ensuring detained
26 immigrants like Mr. Ahn have meaningful access to and participation in the
27 adjudication of the charges justifying his detention at Mesa Verde,
28 determination of his eligibility for release from custody pending resolution

1 of those charges, and adjudication of his claims for relief in removal
2 proceedings conducted by the Department of Justice's Executive Office for
3 Immigration Review. *See generally* 8 U.S.C. §§ 1229 (setting forth rights of
4 noncitizens against who the government initiates removal proceedings),
5 1229a(b)(4), 1229a(c)(2)(B), 1229a(c)(4).

6 97. Mr. Ahn was an individual with a disability. He had diabetes and heart
7 disease, serious illnesses that put patients at a high risk of serious injury or
8 death from COVID-19. He also had depression and a history of suicide
9 attempts. Both conditions qualify as disabilities for purposes of the
10 Rehabilitation Act. 29 U.S.C. §705(2)(B); 42 U.S.C. § 12102.

11 98. In February 2020, ICE through its ERO took custody of Mr. Ahn and
12 transported him to Mesa Verde. GEO Group then took custody of Mr. Ahn.
13 Despite binding, non-discretionary corporate and contractual policies
14 regarding identification of individuals with serious mental illness or other
15 special vulnerabilities upon a person's admission to Mesa Verde, GEO
16 Group facility administrators only conducted only a cursory interview of Mr.
17 Ahn and failed to initially identify Mr. Ahn's serious mental health issues.

18 99. GEO Group and ICE discriminated against Mr. Ahn because of his disability
19 in myriad interconnected ways:

20 a. First, by exposing Mr. Ahn to a heightened risk of contracting COVID-
21 19, ICE prevented Mr. Ahn from participating in the removal process
22 by reason of his disability. By failing to take account of his special
23 vulnerability to severe illness or death if he were to contract COVID-
24 19, ICE prevented Mr. Ahn from participating in the removal process
25 by reason of his disability.

26 b. By failing to provide Mr. Ahn adequate protection from COVID-19
27 through the only effective means to reduce the risk of severe illness or
28 death, release, ICE had the purpose or effect of defeating or

1 substantially impairing the accomplishment of the objectives of
2 removal proceedings and the services, programs, and activities within
3 the detention centers with respect to Mr. Ahn.

4 c. Defendants also prevented Mr. Ahn from accessing basic services such
5 as a safe living space, toilets, recreation, timely medical care or other
6 programming without risk of death from heightened exposure to
7 COVID. Mr. Ahn requested an accommodation of his disabilities
8 repeatedly when he made requests for release and all of those requests
9 for accommodation were denied.

10 d. Second, GEO Group discriminated against Mr. Ahn when it placed him
11 in an isolation cell despite his mental health conditions. GEO Group
12 failed to provide Mr. Ahn with the service or benefit of a safe living
13 space without tie-off points, taking account his well-documented
14 history with suicidal ideation. While isolated, GEO prevented Mr.
15 Ahn from accessing their programs, services, or activities, including
16 the removal process, by taking actions that foreseeably would lead to
17 Mr. Ahn's death because of his disability.

18 e. GEO Group failed to provide Mr. Ahn the reasonable accommodation
19 of a room that was regularly observed and devoid of implement with
20 which one could affect a suicide attempt.

21 f. GEO Group failed to provide him with appropriate mental health
22 services or accommodations, despite Mr. Ahn's long history with
23 depression and suicidal thoughts. As such, he was not given equal
24 access to the removal proceedings or programming as individuals
25 without disabilities.

26 g. Further, GEO Group failed to consider the appropriateness of less-
27 restrictive alternatives to solitary confinement for individuals like Mr.
28 Ahn with serious mental illness. They failed to consider this even

1 though there was no legitimate purpose behind isolating Mr. Ahn
2 initially (as he had a negative COVID-19 test). GEO Group's policies
3 and ICE's contract requires the facility administrator and
4 interdisciplinary staff to conduct regular, periodic review of people in
5 solitary confinement who suffer from mental health-related
6 disabilities, and to consider them for release to general population.

7 h. GEO Group's COVID and isolation policies and practices manifest
8 deliberate intentional discrimination and/or deliberate indifference to
9 the likelihood that detainees with serious mental health conditions
10 would suffer illegal discrimination at Mesa Verde.

11 i. GEO Group further failed to ensure that its staff had appropriate
12 training for responding to detained migrants, like Mr. Ahn, who
13 suffered from depression and suicidality.

14 100. ICE's and GEO Group's disability discrimination in violation of the
15 Rehabilitation Act caused Mr. Ahn's emotional distress, deterioration and
16 death.

17 101. Plaintiff brings this claim Individually and as Successor-in-Interest.

18 **COUNT THREE: VIOLATION OF THE LAW OF NATIONS UNDER**
19 **THE ALIEN TORT STATUTE FOR TORTURE & CRUEL, INHUMANE**
20 **AND DEGRADING TREATMENT**

21 ***Plaintiff against Defendant GEO Group***

22 102. Plaintiff re-alleges and incorporates by reference all allegations in the
23 foregoing paragraphs.

24 103. The Alien Tort Statute ("ATS"), enacted in 1789, permits non-citizens
25 to bring suit in U.S. courts for violations of the law of nations or a treaty of
26 the United States. Under the ATS, federal courts are authorized to recognize
27 a common-law cause of action for violations of clearly defined, widely
28 accepted human rights norms.

1 104. The United States has signed and ratified with reservations,
2 understanding, and declarations (“RUDs”) binding treaties banning
3 punishment of prolonged solitary confinement and solitary confinement of
4 persons with mental illness for any period because it constitutes cruel,
5 inhuman and degrading treatment (“CIDT”) and torture.

6 105. The Convention Against Torture and Other Cruel Inhuman and
7 Degrading Treatment (“CAT”) constitutes a clearly defined, widely accepted
8 human rights treaty obligation that the United States has signed and ratified
9 (with RUDs), ratified October 21, 1994, 1465 U.N.T.S. 85 (entered into
10 force June 26, 1987).

11 106. The United States, as a state party to the CAT, has implemented its
12 obligations in domestic law. See, e.g., 8 C.F.R. § 208.18.

13 107. Articles 1(1) and 16(1) of the CAT define torture and require the
14 United States to prevent it and CIDT within its jurisdiction.

15 108. The United States has adopted with RUDs the International Covenant
16 on Civil and Political Rights (“ICCPR”). International Covenant on Civil
17 and Political Rights art. 7, ratified June 8, 1992, 999 U.N.T.S. 171 (entered
18 into force March 23, 1976)

19 109. Art. 7 of the ICCPR states: “No one shall be subjected to torture or
20 [CIDT] or punishment”, and Art. 4(2) establishes this as a non-
21 derogable peremptory norm.

22 110. The U.N. Special Rapporteur on Torture and Other CIDT has stated
23 that the “imposition, of solitary confinement of any duration, on persons
24 with mental disabilities is cruel, inhuman or degrading treatment. (A/66/268,
25 paras. 67-68, 78).

26 111. Moreover, any restraint on people with mental disabilities for even a
27 short period of time may constitute torture and ill-treatment.” Special
28 Rapporteur on Torture and Other [CIDT], Report of the Special Rapporteur

1 on torture and other cruel, inhumane or degrading treatment or punishment,
2 ¶ 63, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013) Juan Mendez.

3 112. Defendant's conduct described herein constitutes torture and cruel,
4 inhuman, and degrading treatment, a violation of "specific, universal, and
5 obligatory" international law norms, as evidenced by numerous binding
6 international treaties, declarations, and other international law instruments.
7 Accordingly, Defendant's conduct is actionable under the ATS.

8 113. GEO Group tortured Mr. Ahn to death and subjected him to CIDT by
9 intentionally inflicting severe physical and mental pain and suffering upon
10 him for no facially legitimate purpose.

11 114. Specifically, GEO Group supervisors ordered Mr. Ahn's placement in
12 solitary confinement for medical quarantine despite a negative COVID-19
13 test and no legitimate or consistent justification for such confinement.

14 115. GEO Group did this despite being specifically aware of Mr. Ahn's
15 diagnosis of unspecified depression and his, at least, three prior suicide
16 attempts. They also placed him in solitary confinement despite having
17 recently identified his mental illness as "severe".

18 116. GEO Group personnel knew that time in solitary confinement,
19 particularly for someone in Mr. Ahn's condition, would inflict severe
20 psychological pain and put Mr. Ahn at an acute risk of suicide.

21 117. Indeed, as a matter of corporate policy, every GEO Group detention
22 officer at Mesa Verde is required to receive suicide prevention training that
23 specifically warns of the acute risks of solitary confinement for people with
24 past histories of suicidal ideation, involuntary commitment, or diagnoses like
25 the one conferred on Mr. Ahn by the GEO's own physicians.

26 118. Painfully aware of the specific form of acute suffering and harm
27 segregation would inflict on a detained person with depression, suicidal
28

1 ideation and past suicide attempts, GEO intentionally condemned Mr. Ahn
2 to the acute psychological, emotional, and physical pain and suffering.

3 119. GEO Group's torture and CIDT of Mr. Ahn caused his death.

4 120. Additionally, GEO Group provided Mr. Ahn the means and
5 opportunity to effectuate his suicide by refraining from observing Mr. Ahn
6 during the period when he died and placing Mr. Ahn in a solitary
7 confinement cell with bed sheets and a tie off point – well known risks
8 points for suicide.

9 121. GEO Group's acts and omissions were deliberate, willful, intentional,
10 wanton, malicious, oppressive, and in conscious disregard for Mr. Ahn's
11 rights under international and U.S. law and should be punished by an award
12 of punitive damages in an amount to be determined at trial.

13 122. No absolute or qualified immunity exists to shield GEO group from
14 liability.

15 123. Plaintiff brings this claim Individually and as Successor-in-Interest.

16 **COUNT FOUR: NEGLIGENCE OR NEGLIGENCE PER SE**

17 ***Plaintiff against Defendant GEO Group***

18 124. Plaintiff realleges and reincorporates Plaintiff re-alleges and
19 incorporates by reference all allegations in the foregoing paragraphs.

20 125. "The elements of a negligence claim under California law are duty,
21 breach, causation, and injury." *Stasi v. Inmediata Health Group Corp.*, 501
22 F.Supp.3d 898, 912 (S.D. Cal. 2020) (citing *Vasilenko v. Grace Family*
23 *Church*, 3 Cal. 5th 1077 (2017)).

24 126. Because detainees are helpless to protect themselves while in the
25 custody and control of an immigration detention facility, GEO Group owes
26 detainees a heightened duty of care. *See, Edison v. U.S.*, 822 F.3d 510, 521-
27 22 (9th Cir. 2016).

28 127. Here, GEO Group:

- a. Failed to identify Mr. Ahn as at-risk for suicide or self-harm during an initial screening, including because Defendant failed, during that screening, to effectively inquire into Mr. Ahn's relevant medical history and prior suicide attempts.
 - b. Failed to identify Mr. Ahn as at-risk of suicide or self-harm at any time after his initial screening, despite Mr. Ahn's repeated statements expressing feelings of depression, anxiety, low energy, and possible suicidal ideation, including to GEO Group staff.
 - c. Failed to provide Mr. Ahn with a mental health evaluation or treatment.
 - d. Locked Mr. Ahn into a solitary confinement cell, despite the fact that Mr. Ahn had mental illness, and isolating a person with mental illness causes their condition to deteriorate and creates a substantial risk of self-harm or suicide.
 - e. Failed to inspect the cell for any implements that could facilitate self-harm or suicide, and so left the cell with a bed sheet and tie-off point.
 - f. Failed to appropriately observe Mr. Ahn in accordance with the observation needs and requirements for someone with Mr. Ahn's mental health conditions.
128. These acts and omissions constitute negligence and negligence per se.
129. The negligent acts and omissions were performed by GEO Group and its agents or employees who acted within the scope of their employment for GEO Group.
130. It was reasonably foreseeable that these acts and omissions would place Mr. Ahn in emotional distress prior to his death and at substantial risk of self-harm or suicide, and these acts and omissions proximately caused Mr. Ahn's death.

131. Plaintiff brings this claim Individually and as Successor-in-Interest as defined in Section 377.11 of the California Code of Civil Procedure and seeks survival damages for the violation of Decedent's rights.

**COUNT FIVE: INTENTIONAL INFLICTION OF EMOTIONAL
DISTRESS**

Plaintiff against Defendant GEO Group

132. Plaintiff re-alleges and incorporates by reference all allegations in the foregoing paragraphs.

133. Intentional infliction of emotional distress encompasses "(1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; (3) and actual and proximate causation of the emotional distress by the defendant's outrageous conduct." *Pardi v. Kaiser Foundation Hospitals*, 389 F.3d 840, 852 (9th Cir. 2004) (quoting *Cervantez v. J.C. Penney Co.*, 24 Cal.3d 579, 593 (1979)) (internal quotations omitted).

134. GEO Group staff committed extreme and outrageous conduct against Mr. Ahn when they, despite being aware of his mental health condition, placed him in an isolation cell that they knew, or should have known, would exacerbate his condition.

135. This conduct was further extreme and outrageous because it was done with full knowledge of at least three past suicide attempts and because the isolation cell into which GEO Group staff placed Mr. Ahn was furnished with implements with which one could die by suicide.

136. GEO Group additionally committed extreme and outrageous conduct when they failed to observe Mr. Ahn as required in the isolation cell.

137. Because of Mr. Ahn's mental health condition, his repeated descriptions of his suicidality, and his past suicide attempts, placing Mr. Ahn

1 in an isolation cell recklessly disregarded the high probability that such
2 placement would cause Mr. Ahn extreme emotional distress.

3 138. It did just that and Mr. Ahn began to emotionally deteriorate as a
4 result of his placement in isolation. As such, GEO Group's actions were the
5 proximate cause of his emotional distress.

6 139. Despite this, at no point did GEO Group release Mr. Ahn from
7 isolation and he continued to suffer increasing levels of severe emotional
8 distress.

9 140. This distress culminated when Mr. Ahn died by suicide in GEO
10 Group's isolation cell, unobserved by any GEO staff.

11 141. Plaintiff brings this claim Individually and as Successor-in-Interest.

12 **COUNT SIX: NEGLIGENT TRAINING, SUPERVISION, AND**
13 **RETENTION**

14 ***Plaintiff against Defendant GEO Group***

15 142. Plaintiff re-alleges and incorporates by reference all allegations in the
16 foregoing paragraphs.

17 143. An employer is negligent if they fail to adequately train their
18 employees as to the performance of their job duties, and as a result of such
19 negligent instruction, employees while carrying out their job duties caused
20 injury or damage to the plaintiff. *See State Farm Fire & Casualty Co. v.*
21 *Keenan*, 171 Cal.App.3d 1, 23, 216 Cal. Rptr. 318 (1985).

22 144. PBNDS 2011 require Defendant GEO Group to provide all facility
23 staff members who interact with and/or are responsible for detainees with
24 comprehensive training initially during orientation and repeated at least
25 annually, on effective methods for identifying significant self-harm, as well
26 as suicide prevention and intervention with detainees. Initial training should
27 consist of at least eight hours of instruction, and subsequent annual trainings
28 should be a minimum of two hours.

1 145. PBNDS 2011 also require Defendant GEO Group to train staff as to
2 detainees' disability rights at an initial orientation, and then to refresh staff
3 on the material annually thereafter.

4 146. Defendant GEO Group failed to adequately train its staff as required
5 by PBNDS 2011.

6 147. In addition, Defendant GEO Group failed to adequately train its staff
7 as to: 1) not placing people with mental health conditions in solitary; 2)
8 proper COVID protocols including the lack of need to isolate someone who
9 tested negative for COVID; 3) the need to remove implements from a
10 solitary cell that one could easily use to commit suicide; 4) the protocols for
11 consistent observation of people with depression and past suicide attempts.

12 148. Those failures constituted negligence and negligence per se.

13 149. It was reasonably foreseeable that these acts and omissions would
14 place Mr. Ahn at substantial risk of self-harm or suicide, and these acts and
15 omissions proximately caused Mr. Ahn's death.

16 150. Plaintiff brings this claim Individually and as Successor-in-Interest.

17 **COUNT SEVEN: VIOLATIONS OF CAL. CIVIL CODE § 43, CAL.**

18 **CIVIL CODE § 51 (UNRUH)**

19 ***Plaintiff against Defendant GEO Group***

20 151. Plaintiff re-alleges and incorporates by reference all allegations in the
21 foregoing paragraphs.

22 152. The Unruh Act provides that "[a]ll persons within the jurisdiction of
23 [California] are free and equal, and no matter what their sex, race, color,
24 religion, ancestry, national origin, disability, or medical condition are
25 entitled to the full and equal accommodations, advantages, facilities,
26 privileges, or services in all business establishments of every kind
27 whatsoever." Cal. Civ. Code § 51(b).

153. Defendant GEO Group is a “business establishment” subject to the Unruh Act because Defendant is a for-profit business whose “overall function” is to “protect and enhance [its] economic value, *O’Connor*, 33 Cal. 3d 790, 796 (1983), and whose “purpose [is] making a livelihood or gain,” *Ibister*, 40 Cal. 3d 72, 95 (1985). *See also Est. of Silva v. City of San Diego*, No. 3:18-CV-2282-L-MSB, 2020 WL 6946011, at *22 (S.D. Cal. Nov. 25, 2020) (quoting *O’Connor*, 33 Cal. 3d at 796) (holding that private subcontractors who provided medical services inside county jails were properly subject to the Unruh Act); *also Wilkins-Jones v. Cty. of Alameda*, 859 F. Supp. 2d 1039, 1043 (N.D. Cal. 2012) (holding that a private medical contractor is “qualitatively different from a correctional facility itself; while the County’s operation of a jail may not be a business, [the private medical contractor] is a business establishment operating for profit within a correctional facility.”).

154. A violation of an individual’s rights under the ADA constitutes a violation of the Unruh Act. Cal. Civ. Code § 51(f).

155. Title III of the ADA provides: “No individual shall be discriminated against on the basis of disability in the full enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a).

156. Mr. Ahn is an individual with a disability because he suffered from depression, anxiety, and other mental illnesses that substantially limited his ability to perform major life activities, including sleeping, communicating and regular socialization.

157. Defendant GEO Group operates Mesa Verde, which is a public accommodation. *See* 42 U.S.C.A. § 12181(7)(K) (listing “social service center establishment[s]” as a kind of public accommodation); *see also*

1 *Martin v. PGA Tour, Inc.*, 204 F.3d 994, 998 (9th Cir.2000) (Selectivity
2 about who may enter or use the accommodation does not necessarily defeat
3 its public character.)

4 158. Defendant GEO Group locked Mr. Ahn in an isolation cell,
5 exacerbating his mental illness. This conduct denied Mr. Ahn access to a
6 safe place to sleep, which is a program, service, or activity in a detention
7 facility.

8 159. The denial constitutes discrimination against Mr. Ahn on the basis of
9 his disability, because GEO Group failed to provide him with a reasonable
10 accommodation (e.g., a different housing assignment) when one was
11 necessary.

12 160. Mr. Ahn suffered harm as a result of Defendant's acts and omissions.
13 Specifically, Mr. Ahn suffered exacerbation of his mental illness and
14 ultimately his death.

15 161. Plaintiff brings this claim Individually and as Successor-in-Interest.

16 **COUNT EIGHT VIOLATIONS OF CAL. CIVIL CODE § 52.1 (BANE**
17 **ACT)**

18 ***Plaintiff against Defendant GEO Group***

19 162. Plaintiff re-alleges and incorporates by reference all allegations in the
20 foregoing paragraphs.

21 163. The Bane Act creates a private right of action against any person
22 (whether or not acting under color of law) who interferes by threat,
23 intimidation, or coercion with the plaintiff's enjoyment of rights created by
24 the U.S. constitution, federal laws, the California constitution, or California
25 state laws. *Reese v. County of Sacramento*, 888 F.3d 1030, 1040 (9th Cir.
26 2018).

27 164. The Fifth Amendment guarantees civil detainees a right to adequate
28 medical care. *See Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th

1 Cir. 2018) (discussing the right in the context of the Fourteenth
2 Amendment).

3 165. A civil detainee’s Fifth Amendment rights are violated where: “(i) the
4 defendant made an intentional decision with respect to the conditions under
5 which the plaintiff was confined; (ii) those conditions put the plaintiff at
6 substantial risk of suffering serious harm; (iii) the defendant did not take
7 reasonable available measures to abate that risk, even though a reasonable
8 official in the circumstances would have appreciated the high degree of risk
9 involved—making the consequences of the defendant's conduct obvious; and
10 (iv) by not taking such measures, the defendant caused the plaintiff's
11 injuries.” *Gordan*, 888 F.3d at 1125.

12 166. Defendant GEO Group interfered with Mr. Ahn’s enjoyment of his
13 substantive due process rights under the Fifth Amendment of the U.S.
14 Constitution.

15 167. (i) Defendant made an intentional decision to put Mr. Ahn in solitary
16 confinement on May 14th, 2020, when Mr. Ahn returned from the hospital.

17 168. Placing Mr. Ahn in a solitary cell constitutes “coercion.” *See Reese*,
18 888 F.3d at 1040 (The “threat, intimidation or coercion” need not be
19 “transactionally independent from the constitutional violation alleged.”);
20 *B.B. v. County of Los Angeles*, 25 Cal. App. 5th 115, 130 (Cal. Ct. App.
21 2018), *rev’d on other grounds*, *B.B. v. County of Los Angeles*, 10 Cal. 5th 1
22 (Cal. 2020).

23 169. (ii) Because Mr. Ahn was depressive, that decision placed him at
24 substantial risk of harm.

25 170. (iii) Defendant GEO Group did not take reasonable measures to abate
26 that risk, because Defendant did not, among other things, transfer Mr. Ahn
27 out of isolation, to a mental health institution, or place him under one-to-one
28 supervision. In fact, Defendant did nothing at all.

171. Defendant GEO Group knew or should have known that Mr. Ahn was depressive: Mr. Ahn reported symptoms of depression to a psychologist in April 2020, and also told the psychologist that he had attempted suicide at least three different times in custody in 2014, 2015, and 2016; GEO employees witnessed Mr. Ahn acting abnormally, including being strangely quiet and crying when his release request was denied; Mr. Ahn reported to a psychologist again after being placed in solitary confinement that he had feelings of depression; and on May 16, 2020, a Mesa Verde psychologist said that Mr. Ahn had a high risk of suicide if deported. Defendant GEO Group also knew or should have known that solitary confinement was dangerous to Plaintiff, because the risks and adverse consequences of placing a person with mental illness in solitary confinement is well-established. *See, e.g.*, Civil Rights Education and Enforcement Center, et. al., Complaint for violations of civil, constitutional, and disability rights of Anderson Avisai Gutierrez (Mar. 13, 2020), https://www.splcenter.org/sites/default/files/2020-03-13_anderson_avisai_gutierrez_crcl_504_complaint_.pdf (describing cases of detainees who died by suicide following improper placement in segregation); U.S. Department of Homeland Security, Memorandum to Matthew Albence from Veronica Venture regarding Adelanto Correctional Facility Complaints (April 25, 2018), <https://www.dhs.gov/sites/default/files/publications/adelanto-expert-memo-04-25-18.pdf> at 5 (“Detainees with serious mental disorders should only be housed in administrative segregation as a last resort, as that environment is not conducive to improving mental health status”); Memorandum from Ellen Gallagher, Senior Policy Advisor, DHS CRC. to Deputy Secretary Mayorkas, DHS (July 23, 2014) at 3 (stating that placing individuals in ICE custody who suffer from serious mental health conditions into segregated

settings is non-therapeutic and “imposes improper punitive conditions, and subjects vulnerable detainees to physical and mental deterioration”); Justin D. Strong et al., *The body in isolation: The physical health impacts of incarceration in solitary confinement*, PLOS ONE (Oct. 9, 2020), <https://doi.org/10.1371/journal.pone.0238510> (explaining that “solitary confinement is associated not just with mental, but also with physical health problems” and “analyz[ing] a range of physical exacerbad by both restrictive conditions and policies.”). In other words, the consequences of Defendant’s acts and omissions were obvious.

172. Defendant GEO Group also acted with “specific intent” to deprive Mr. Ahn of his Fifth Amendment rights, because these acts and omissions are also evidence of a “reckless disregard” if not a knowing interference, of his rights. *See Reese*, 888 F.3d at 1043-45 (citing *Cornell v. City and County of San Francisco*, 17 Cal. App. 5th 766, 801 (2017)).

173. As a result of Defendant’s failure to take reasonable measures and move Mr. Ahn out of solitary confinement, Mr. Ahn died by suicide. Mr. Ahn’s depression was exacerbated by isolation and at the time that he attempted self-harm he was not visible to other detainees or GEO employees who could have intervened.

174. Plaintiff brings this claim Individually and as Successor-in-Interest.

REQUEST FOR RELIEF

175. Enter judgment in favor of Plaintiff and against Defendants.

176. Enter an order declaring Defendants actions to be unlawful.

177. Award Plaintiff compensatory and punitive damages in an amount to be determined at trial.

178. Award Plaintiff reasonable attorney’s fees and costs.

179. Award any other relief this Court deems just, equitable, and proper.

Submitted by Sylvia Ahn
on behalf of the Estate of Choung Woong Ahn
By her Counsel,

/s/ Trevor Kosmo

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Dated: June 23, 2022